

**To:** Distefano, Nichole[DiStefano.Nichole@epa.gov]  
**Cc:** Levine, Carolyn[Levine.Carolyn@epa.gov]  
**From:** Black, Jonathan (Tom Udall)  
**Sent:** Mon 8/17/2015 1:59:27 PM  
**Subject:** RE: Compensation...

In addition to this, I'd love to follow up on EPA financial support for the State and local towns who are seeking assistance for reimbursements as well as future necessary costs like long-term monitoring. I've heard the State needs money asap to start paying for such measures and that it shouldn't be an enormous amount of money. I'm trying to find out more information on what they need.

**From:** Distefano, Nichole [mailto:[DiStefano.Nichole@epa.gov](mailto:DiStefano.Nichole@epa.gov)]  
**Sent:** Thursday, August 13, 2015 5:22 PM  
**To:** Black, Jonathan (Tom Udall) <[Jonathan\\_Black@tomudall.senate.gov](mailto:Jonathan_Black@tomudall.senate.gov)>  
**Cc:** Hermann, Maya (Heinrich) <[Maya\\_Hermann@heinrich.senate.gov](mailto:Maya_Hermann@heinrich.senate.gov)>; Levine, Carolyn <[Levine.Carolyn@epa.gov](mailto:Levine.Carolyn@epa.gov)>  
**Subject:** RE: Compensation...

On the waiver of legal rights, see below:

EPA is not offering immediate reimbursements for damages from the Gold King Mine water and it is not true that if someone submits a claim that by doing so they limit or waive future rights.

EPA's Federal Tort Claims Act (FTCA) regulation provides that a person may amend their claim form at any time prior to reaching a settlement with EPA, or before the person files a lawsuit under the FTCA. Additionally, a person claiming an injury or damage has two years from the date of the event to file a claim with EPA under the FTCA. (40 CFR Part 10).

While EPA has made Form 95 available for filing a claim, EPA has also noted on the Region 8 website that:

**"Standard Form 95 is not required to present a claim under the FTCA, but it is a convenient format for supplying the information necessary to bring an FTCA claim. Please note that a completed form must state a claim for money damages in a "sum certain" amount (that is, a specific amount) claimed for personal injury, death, or injury to or loss of property."**

Nichole Distefano

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**From:** Black, Jonathan (Tom Udall) [mailto:[Jonathan\\_Black@tomudall.senate.gov](mailto:Jonathan_Black@tomudall.senate.gov)]

**Sent:** Thursday, August 13, 2015 5:18 PM

**To:** Distefano, Nichole

**Cc:** Hermann, Maya (Heinrich); Levine, Carolyn

**Subject:** RE: Compensation...

Thanks. yea...

You guys are saying you are going to compensate people for damages, but how will that be done, what authority or funds are you using, are people who fill out the compensation forms waiving

legal rights for other compensation, etc. does EPA need additional authority/funds for compensation and long term monitoring efforts?

FAQs on those types of things would be great.

Thanks

**From:** Distefano, Nichole [<mailto:DiStefano.Nichole@epa.gov>]  
**Sent:** Thursday, August 13, 2015 5:15 PM  
**To:** Black, Jonathan (Tom Udall) <[Jonathan\\_Black@tomudall.senate.gov](mailto:Jonathan_Black@tomudall.senate.gov)>  
**Cc:** Hermann, Maya (Heinrich) <[Maya\\_Hermann@heinrich.senate.gov](mailto:Maya_Hermann@heinrich.senate.gov)>; Levine, Carolyn <[Levine.Carolyn@epa.gov](mailto:Levine.Carolyn@epa.gov)>  
**Subject:** RE: Compensation...

Jonathan –

I am looping in Carolyn Levine who is also working on this issue from our office.

The issue is somewhat complex and we are working to get some Qs/As out to help with some of these questions. Bear with us a little bit while we finish those up and then we'll circle back.

In the meantime, here is a link to what is on the website about the claims process.

<http://www2.epa.gov/goldkingmine/claims-process-and-standard-form-95-damage-injury-or-death-result-gold-king-mine>

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**From:** Black, Jonathan (Tom Udall) [[mailto:Jonathan\\_Black@tomudall.senate.gov](mailto:Jonathan_Black@tomudall.senate.gov)]

**Sent:** Thursday, August 13, 2015 1:59 PM

**To:** Distefano, Nichole

**Cc:** Hermann, Maya (Heinrich)

**Subject:** Compensation...

Who can we get on the phone to help walk me through how EPA is going to compensate folks?  
And where the money is coming from?

General background info to understand the plan.

Thanks.